

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 7380**

**BILL NUMBER: SB 248**

**DATE PREPARED:** Apr 6, 2001

**BILL AMENDED:** Apr 5, 2001

**SUBJECT:** Crime in the Presence of a Child.

**FISCAL ANALYST:** Mark Goodpaster

**PHONE NUMBER:** 232-9852

**FUNDS AFFECTED: X GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

(A) It requires a court to consider whether an offender committed the offender's crime in the presence of or within the hearing of a person less than eighteen (18) years of age. It makes commission of a crime in the presence of or within the hearing of a person less than eighteen (18) years of age an aggravating factor that may be used to extend the sentence of an offender or impose consecutive sentences.

(B) It allows a person convicted of child molestation as a Class A or Class B felony to be imprisoned for life without parole if the person has a prior unrelated conviction for child molestation as a Class A or Class B felony.

**Effective Date:** July 1, 2001.

**Explanation of State Expenditures:** (Revised) Provision A could increase state expenditures for incarcerating an offender by allowing courts to extend the sentence of an offender or impose consecutive sentences if the crime was committed in the presence of or within the hearing of a person less than 18 years of age.

Provision B could increase the future population in Department of Correction (DOC) facilities if a segment of these offenders are sentenced to life without parole. Because under current law, any sex offender who has a prior unrelated sex offense may be sentenced to an additional ten years in prison, the additional costs associated with this bill would not begin to take effect until after this biennium.

The following table shows the potential difference between the sentences that offenders can receive under this bill and what they would receive under current law:

Child Molesting Offense	Average Length of Stay	Added Term Under Current Law	Year Offenders Released Who Are Committed in 2001 (assumes credit time )
Class A Felony	10.3 years	10 years	2011
Class B Felony	3.5 years	10 years	2007

DOC reports that of the 1,205 offenders released between FY 1998 and FY 2000, 11% were sentenced for multiple child molestation convictions. The number of offenders who have been previously convicted of a Class A or B felony for child molesting is not immediately available. If this information becomes available, this fiscal note will be updated.

The following table shows the number of offenders who have been committed to DOC facilities for either Class A or B child molesting for FY 1996 through 2000 along with a five-year average of commitments.

	Fiscal Year					Five Year
<u>Felony</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>Average</u>
A	6	12	31	53	96	40
B	<u>129</u>	<u>116</u>	<u>78</u>	<u>89</u>	<u>137</u>	<u>110</u>
Total	<u>135</u>	<u>128</u>	<u>109</u>	<u>142</u>	<u>233</u>	<u>150</u>

If 10% of these offenders who were committed to DOC facilities for child molestation had prior offenses, then between 15 and 23 offenders (based on the five-year average and the number of commitments for FY 2000) could be sentenced to life without parole each year for this crime. The average age of offenders who were released from DOC after incarceration for child molesting was 35.9 years. If these offenders would live to be on average 70 years of age, then over a 34-year period, the additional number of offenders added to the state facilities would be between 287 and 431.

The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the costs of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** If offenders are incarcerated for longer periods in county jails, local expenditures could increase. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts; local law enforcement agencies.

**Information Sources:** Indiana Sheriffs Association.